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| From: | Presidency |
| To: | Working Party on Civil Law Matters (General Questions) |
| Subject: | 2000 Hague Convention on the International Protection of Adults - Exchange of views on the way forward |

I. INTRODUCTION

1. The Commission is undertaking preparatory work on a future legislative initiative regulating cross-border protection of vulnerable adults and is currently carrying out an impact assessment study. The study aims to analyse existing problems and implications associated with cross-border protection of vulnerable adults in the EU, and to assess the impact of the different policy options to address these issues.
2. Presently, the sole comprehensive instrument of private international law in this field is the Hague Convention of 13 January 2000 on the International Protection of Adults (hereinafter the 2000 Hague Convention) concluded under the auspices of the Hague Conference on Private International Law (hereinafter the HCCH).

3. In the context of the aforementioned ongoing initiative of the European Commission tentatively planned for adoption during the upcoming Swedish Presidency; with respect to the informal statements presented by the representatives of the European Commission and the HCCH¹ at the informal Workshop on Cross-border Protection of Vulnerable Adults on 20 September 2022 (hereinafter the Workshop)²; and in view of the First Meeting of the Special Commission on the practical operation of the 2000 Hague Convention which will be held on 9-11 November 2022 in The Hague (hereinafter the Special Commission); the Presidency considers it appropriate to raise awareness about the current discussions in this area and would like to ask Member States to share their standpoints and views on the best way forward.

4. The policy options presented in the frame of the ongoing impact assessment study³ are as follows:

Option 1: Maintaining the current *status quo* and together with the Permanent Bureau of the HCCH encouraging Member States to ratify the 2000 Hague Convention.

Option 2: Adopting a **Council decision obliging Member States to ratify or accede to the 2000 Hague Convention**, which will be applied within the EU and towards third states which have ratified the 2000 Hague Convention.

Option 3: Adopting an **EU Regulation providing** a comprehensive set of common rules, which will apply only in the EU.

Option 4: Adopting an **EU Regulation** to complement the 2000 Hague Convention and obliging Member States to **ratify the 2000 Hague Convention through a Council decision**.

¹ Mr. Philippe Lortie, First Secretary, Hague Conference on Private International Law.

² Workshop on Cross-border Protection of Vulnerable Adults co-organised by the Czech Presidency and the European Commission.

³ See the discussion paper circulated by Milieu Consulting SRL, the conductor of the impact assessment study in view of the meeting of the targeted focus group on Wednesday 14 September 2022.

Delegation's attention is drawn to a meeting which will take place on 27 October 2022 and where Member States will have the possibility to discuss these options, which are not finalised yet, more in depth, as part of the consultation strategy of the Commission.

5. For the European Union to join the 2000 Hague Convention⁴ the HCCH announced during the Workshop the intention to discuss possible amendments to the 2000 Hague Convention by adding final clauses allowing Regional Economic Integration Organisation to join the 2000 Convention at the Special Commission. The addition of a REIO clause, probably by means of a Protocol to the 2000 Convention, would render possible for the EU to join the Convention. This proposal will be enshrined in Preliminary Doc. no 12 to be published soon on the HCCH portal. The suitability of this approach is *inter alia* based on the following arguments:
- a) allowing the 2000 Hague Convention to become part of EU law;
 - b) ensuring legal certainty for vulnerable adults and their respective families by having a single international legal instrument, *ergo* the 2000 Hague Convention;
 - c) remaining at the discretion of the EU to adopt complementary rules to supplement those already provided under the 2000 Hague Convention.

II. EXAMINATION OF THE POSSIBLE WAY FORWARD

6. Following the Workshop and anticipating the First Meeting of the Special Commission on the practical operation of the 2000 Hague Convention, the Presidency wishes to give Member States the opportunity to exchange their views and provide comments and suggestions on **the interplay between the 2000 Hague Convention and the future EU instrument on cross-border protection of vulnerable adults in light of the proposal of the HCCH presented in point 5.**

⁴ By analogy with the EU's accession to the 2007 Hague Child Support Convention and the 2007 Hague Protocol on Applicable Law; see the Council Decision of 9 June 2011 on the approval, on behalf of the European Union, of the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance, OJ L 192, 22.7.2011, p. 39–50.